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CLERK'S OFFICE  
**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF MASSACHUSETTS  
2004 OCT 26 A 11:08

**CIVIL ACTION #04 11917 WGY**  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

WILLIAM ROWE,

PLAINTIFF

v.

SHARRON WENDY VALLIERE,

DEFENDANT

**DEFENDANT'S MOTION FOR SANCTIONS UNDER RULE 11**

NOW COMES Defendant, Sharron Wendy Valliere, in the above-captioned matter and respectfully moves this Honorable Court enter sanctions against the plaintiff and his attorneys for willful violation of Rule 11 of the Federal Rules of Civil Procedure. In accordance therewith, Defendant respectfully requests that the court enter the following orders:

1. An order sanctioning Paul A. Gargano, Esquire; Sean M. Beagan, Esquire; and the law firm of Gargano and Associates for fraudulent representation to the court by presenting an action under 28 U.S.C. § 1332 for diversity of citizenship which is not supported by fact or law.
2. An order requiring that the Plaintiff, William T. Rowe; Paul A. Gargano, Esquire; Sean M. Beagan, Esquire; and the law firm of Gargano and Associates pay Defendant's counsel fees and costs incurred in filing her Motion to Dismiss and this pleading.

IN SUPPORT THEREOF, the Defendant says that:

1. On September 2, 2004, the Plaintiff filed the within action in the Federal District Court for the District of Massachusetts alleging diversity of citizenship as a basis for jurisdiction. By presenting this pleading to the court, Plaintiff's attorneys certified to the best of their knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that the filing complied with the requirements of Rule 11.
2. The Plaintiff and his attorneys had full knowledge that there was not the requisite complete diversity to confer jurisdiction on this Court based on (1) the Defendant's Nantucket residency, (2) her continued business activities within the Commonwealth of Massachusetts, and (3) the fact that the Plaintiff's alleged causes of action arise from transactions occurring during a period of cohabitation by the parties in Massachusetts. Further, the Plaintiff's attorneys arranged service of the summons in this case upon the Defendant in Nantucket, Massachusetts on September 17, 2004, in hand by the Nantucket Sheriff.
3. In addition, on August 12, 2004, 21 days prior to the filing of the within complaint, the Defendant filed a Verified Complaint in Equity with the Nantucket Probate & Family Court, docket no. 04E0002GC seeking specific performance and other equitable relief relative to enforcement of a partnership contract between the parties the subject of which was a sport fishing boat documented in Massachusetts. The Plaintiff and his attorneys appeared in the state court action and knew that the Defendant herein had submitted to the jurisdiction of the Massachusetts court for purposes of any counterclaims that the

Plaintiff alleged. Even if they believed in good faith that the Defendant's residence was Vermont, the reasonable inquiry required by Rule 11 would have established that diversity of citizenship did not exist.

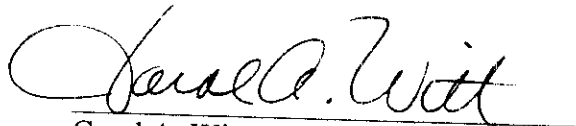
4. The Plaintiff and his attorneys attempted to confer jurisdiction by false and fraudulent averment of the Defendant's citizenship.
5. The Plaintiff has an adequate remedy at law in the state court to litigate any claims he alleges against the Defendant and the only possible explanation for his filing in this Court are for improper purposes: namely, to harass, inconvenience, increase litigation expense and retaliate for the Defendant's filing of her state court action.

WHEREFORE, the Defendant respectfully requests this Honorable Court enter sanctions against Plaintiff, William T. Rowe; Paul A. Gargano, Esquire; Sean M. Beagan, Esquire; and the law firm of Gargano and Associates as aforesaid.

Dated: September 22, 2004

Respectfully submitted.

Sharron Wendy Valliere,  
By her Attorney,

A handwritten signature in cursive script, appearing to read "Carol A. Witt", written over a horizontal line.

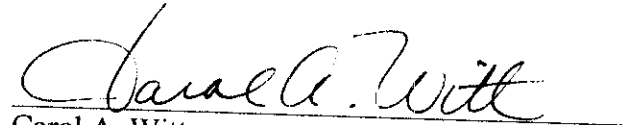
Carol A. Witt  
Attorney for Defendant  
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Salem, Massachusetts 01970  
BBO# 531820  
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**CERTIFICATE OF SERVICE**

**The undersigned hereby certifies** that a true copy of the within Defendant's Motion for Sanctions under Rule 11 was this day served upon Plaintiff by mailing same, first class postage prepaid, to Paul A. Gargano and Sean M. Beagan, Attorneys for Plaintiff, of Gargano and Associates, 4 Canal Park, Cambridge, Massachusetts 02141.

SIGNED under the pains and penalties of perjury.

Dated: September 22, 2004

  
Carol A. Witt